

17.10.2023
Sl. No.28(DL)
srm

C.O. No. 2943 of 2023

Surya Chandra Mishra

Versus

Mrs. Chitrangana Debnath

Mr. S.N. Mukherjee,
Mr. Gunjan @ Kanishk Sinha,
Mr. Niraj Gupta,
Ms. Afreja Nusrat

...for the Petitioner.

The petitioner has challenged orders dated March 28, 2023, April 24, 2023, June 19, 2023 and August 8, 2023 passed in Matrimonial Suit No.2858 of 2021 by the learned Additional District Judge, 16th Court at Alipore, South 24-Parganas.

By the orders impugned, the learned trial court allowed the wife/respondent adjournments and opportunities to file the written statement.

The petitioner submits that without any formal application for extension of time to file the written statement, such orders could not be passed.

In my opinion, the contention of the petitioner is technical. Rules of procedure are handmaid of justice. They are used as a shield not as a sword. Thus, even if there was no formal application for extension of time to file the written

statement, the learned court exercised discretion and allowed the respondent to file the written statement. This is a matrimonial suit. An *ex parte* decision in the matrimonial suit would be unjust. Such decision would not only have a social impact but also a financial and a strong emotional impact.

Thus, justice is sub-served if both the parties are allowed to contest the suit and are able to participate in the proceedings to their best possible ability.

Under such circumstances, I do not find any reason to interfere with the orders passed by the learned court below. However, it is made clear that the learned court below should ensure that the copy of the written statement is served upon the petitioner, if not already served and the suit proceeds expeditiously.

The suit should be disposed of within a year from the next date fixed, in accordance with law. However, if any application for maintenance pendente lite is filed in the suit, the same should be disposed of first.

The revisional application is, thus, disposed of.

There shall be no order as to costs.

Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)